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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,237

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Stephane Leonard

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,237	Applicant(s) LEONARD ET AL.	
	Examiner /Stephen J. Castellano/	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-4-5, 6-20-5</u> . | 6) <input type="checkbox"/> Other: ____. |

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 10, drawn to a process for manufacturing a fuel tank, classified in class 72, subclass unknown.
- II. Claims 1-9, drawn to a product of an injection molded plastic flange, classified in class 220, subclass 562.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by a different process that doesn't involve the welding of shells, a seal being placed within a groove or a ring being screwed onto the threaded part.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

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(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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During a telephone conversation with Mr. Harold Pezzner on June 4, 2008 a provisional election was made with traverse to prosecute the invention of the product of the plastic flange, Group II: claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claim 10 has been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 which has a preamble which states "the flange" positively recites more than the structure of a flange when stating that the hollow body is a fuel tank. Claim 5 contradicts both its preamble and the preamble and body of claim 1. Claim 1 is directed to the plastic flange alone and is intended for mounting accessories on a thermoplastic hollow body. The metes and bounds of claim 5 can't be determined because it can't be determined if claim 5 is directed to the flange alone or is directed to the hollow body (fuel tank) and the flange.

Claim 9 recites the limitation "the impermeability to gases and liquids" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim because no reference is made to an impermeability in either claim 1, 5 or 8.

Claim 9 recites the limitation "the ring" in the last line. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleppner in view of Stangier.

Kleppner discloses a fuel tank (hollow body) for motor vehicles with a plastic flange with a pipette (accessory) mounted for a fuel return line. Kleppner discloses the invention except for the thread on the periphery of the flange. Stangier teaches a flange for a hollow body that has a thread on either ring 358 or union nut 356 which is located at the periphery of the flange in the embodiment shown in Fig. 6. It would have been obvious to add a thread to Kleppner to provide a tight fitting closure to seal the opening in the fuel tank (hollow body).

Re claim 9, Kleppner fails to disclose the compressible seal. Stangier teaches a compressible seal 334 between the flange and the wall of the tank as shown in Fig. 6. It would have been obvious to add the seal to make the joint fluid tight to prevent the escape of liquid fuel or vapors.

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Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleppner in view of Stangier as applied to claims 1 and 5 above, and further in view of Straetz.

Re claims 3 and 4, the combination discloses the invention except for the plastic material of low permeability to gases and liquids and one of the specific plastics mentioned in claim 4. Straetz teaches a low permeability plastic for a barrier made of polyamide. It would have been obvious to modify the composition of the plastic to be polyamide in order to provide a fuel barrier to effectively eliminate permeability of gases and liquid fuel.

Re claim 7, the combination discloses the invention except for the two shells of the fuel tank, the multilayered construction of the shells and the welding of the shells. Straetz teaches the two shells of the fuel tank, the multilayered construction of the shells and the welding of the shells. It would have been obvious to modify the construction of the tank to be two multilayered shells welded to each other to provide easier molding of identical or similar shaped halves because the profile of the half shell is approximately $\frac{1}{2}$ the height of the tank and the interior of the shell is accessible and capable of being modified before final assembly over a closed or blow molded design and the welding can be preformed to insure a fuel tight, leak proof seam.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Stephen J. Castellano/ whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc